

EXHIBIT 2

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15 VIDEO DEPOSITION OF RODERIC G. CATTELL, Ph.D.

15 VIDEO DEPOSITION OF RODERIC G. CATTELL, Ph.D.
16 San Francisco, California
17 Saturday, April 30, 2016
18 Volume I

22 REPORTED BY:
23 REBECCA L. ROMANO, RPR, CSR No. 12546
24 JOB NO. 2303261
25 PAGES 1 - 217

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<p>1 let me know. It's no -- no problem.</p> <p>2 A. Yes.</p> <p>3 Q. I try to take them pretty regularly, just</p> <p>4 for all of our sakes.</p> <p>5 A. Yes.</p> <p>6 Q. I think that's about all that comes to</p> <p>7 mind.</p> <p>8 Your -- your counsel will probably object</p> <p>9 from time to time today. Unless your counsel</p> <p>10 instructs you to answer and says don't answer, you</p> <p>11 should simply --</p> <p>12 A. Okay.</p> <p>13 Q. -- wait for the objection and then</p> <p>14 answer.</p> <p>15 Is there any reason why you can't give</p> <p>16 your best and most truthful testimony today?</p> <p>17 A. No, I don't believe so. I -- I am</p> <p>18 just -- my -- my voice is weak because I've had</p> <p>19 tubes down my throat for -- for pancreatitis and</p> <p>20 everything, so -- and I'm not supposed to wear</p> <p>21 myself out too much or I might get a recurrence of</p> <p>22 the pancreatitis, but I'm -- I'm good for a few</p> <p>23 hours. So that's all we can do.</p> <p>24 Q. Okay. Well, I -- I hope not to take the</p> <p>25 whole day. I do have a number of questions --</p>	<p>1 So preliminary discussions that may have been about</p> <p>2 other things --</p> <p>3 THE DEPONENT: Yes.</p> <p>4 MR. KWUN: -- those would be privileged.</p> <p>5 But if you want to talk about what is in your</p> <p>6 report, what we --</p> <p>7 THE DEPONENT: Yes.</p> <p>8 MR. KWUN: -- what we engaged you for,</p> <p>9 that's fine.</p> <p>10 THE DEPONENT: Okay. In my report, I --</p> <p>11 I talk about the fair use of the APIs in question.</p> <p>12 Q. (By Mr. Ramsey) Did you actually write your</p> <p>13 report?</p> <p>14 A. Yes.</p> <p>15 Q. Did you create the first draft?</p> <p>16 A. Yes.</p> <p>17 Q. Did you provide it to others for review</p> <p>18 and comment and editing?</p> <p>19 A. Yes, others at -- at Michael's</p> <p>20 organization.</p> <p>21 Q. Okay. Did you provide it to any others,</p> <p>22 beyond the Keker & Van Nest law firm, for review</p> <p>23 and comment?</p> <p>24 A. No.</p> <p>25 Q. So did -- about how many estimates,</p>
<p style="text-align: right;">Page 10</p> <p>1 A. Yeah.</p> <p>2 Q. -- but I -- I will bear that in mind.</p> <p>3 A. Okay.</p> <p>4 Q. Thank you for letting me know.</p> <p>5 So one more question. Will you agree to</p> <p>6 be intellectually honest with me today?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Thank you.</p> <p>9 So you understand you -- you have</p> <p>10 submitted an expert report in this case?</p> <p>11 A. Yes.</p> <p>12 Q. When did you -- when were you first asked</p> <p>13 to prepare an expert report in -- in this case?</p> <p>14 A. Oh, I don't remember -- it was -- it was</p> <p>15 in the second half of last year, I'm -- I'm going</p> <p>16 to -- I'd be guessing right.</p> <p>17 Q. Okay.</p> <p>18 A. Maybe November.</p> <p>19 Q. Okay. And -- and what particularly were</p> <p>20 you asked to opine about?</p> <p>21 A. On the copyright -- well, originally, it</p> <p>22 was -- sorry.</p> <p>23 MR. KWUN: Objection. Just going to</p> <p>24 caution the witness not to discuss things beyond</p> <p>25 the scope of the engagement that you actually had.</p>	<p>1 estimating, did you exchange back and forth with</p> <p>2 the law firm?</p> <p>3 MR. KWUN: Objection. Form.</p> <p>4 You can go ahead and answer.</p> <p>5 THE DEPONENT: I can go ahead.</p> <p>6 Q. (By Mr. Ramsey) Yeah. You will hear that --</p> <p>7 A. I don't remember exactly, you know.</p> <p>8 Maybe half a dozen or -- or more.</p> <p>9 Q. Okay. So -- so how would you describe</p> <p>10 your basic opinion in this case? What is your --</p> <p>11 what is your high-level opinion?</p> <p>12 A. My high-level opinion is that -- that</p> <p>13 Android's use of the Java API should be a fair use</p> <p>14 of copyrighted materials, given that they've</p> <p>15 been -- they -- they've decided that they can be</p> <p>16 copyrighted, the court has decided.</p> <p>17 Q. Okay. But you don't mention in your</p> <p>18 report -- as far as I can see, you don't ever</p> <p>19 mention the -- the law about fair use; isn't that</p> <p>20 true?</p> <p>21 A. Well, I'm not an expert on -- on the law.</p> <p>22 I'm an expert on computer science. So my arguments</p> <p>23 are based on what -- what I know about computer</p> <p>24 scientists and -- and the history and the</p> <p>25 expectations and on.</p>

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1 Q. Okay. But the lawyers at Keker Van Nest
 2 never gave you the law to include in your report as
 3 a legal framework?

4 MR. KWUN: Objection. You can talk about
 5 what you relied on in forming your opinions.

6 THE DEPONENT: Yes.

7 MR. KWUN: But other than that, you --
 8 I'm instructing you not to answer, to the extent
 9 that it would reveal your discussions with counsel.

10 THE DEPONENT: Okay. Well --

11 MR. RAMSEY: Let me reframe my question.
 12 I'm not sure I agree with the objection, but table
 13 that for now.

14 Q. (By Mr. Ramsey) In your expert report, I --
 15 I see no place where you state the -- any legal
 16 framework for assessing the other factual issues that
 17 you discuss in your report; isn't that right?

18 A. Yes, correct.

19 Q. So while you just stated you have an
 20 opinion about fair use, it's true that in your
 21 report, which is the full statement of your
 22 opinions, you -- you've not actually mentioned the
 23 legal framework for fair use at all?

24 MR. KWUN: Objection. Form.

25 THE DEPONENT: Should I not -- not answer
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1 implementation using none of the original code, but
 2 to produce the same kind of result -- the same
 3 input and output with a completely different
 4 implementation.

5 Q. All right. You -- is it correct to -- to
 6 state that your report put forths your -- puts
 7 forth your opinion about what computer scientists
 8 would think about the elements of fair use?

9 MR. KWUN: Objection. Form.

10 THE DEPONENT: In this case, yes, I'm
 11 saying what -- I can't recite them off the top of
 12 my head, but as I understand there's four main
 13 elements on -- in the fair use and -- and I'm --
 14 and I'm only commenting on my understanding of the
 15 technology and the industry and how that would
 16 relate to those.

17 MR. RAMSEY: All right. Let's go ahead
 18 and mark your report.

19 (Exhibit 5167 was marked for identification by
 20 the court reporter and is attached hereto.)

21 Q. (By Mr. Ramsey) You've been handed
 22 Exhibit 5167.

23 A. Yes.

24 Q. Do you agree that Exhibit 5167 is a copy
 25 of your expert report in this case?

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1 the question?

2 MR. KWUN: You should answer the
 3 question, unless I instruct you not to answer.

4 THE DEPONENT: Okay. All right. So I --

5 Q. (By Mr. Ramsey) You may hear "form" over and
 6 over and that's -- that means you should answer --

7 A. Okay.

8 Q. -- unless Michael disagrees with you.

9 A. All right. So, yes, I -- I -- I've read
 10 about the law and I've heard about the laws
 11 regarding fair use. And although I don't talk
 12 about those laws in my expert report, most of the
 13 things in my expert report are based on my
 14 understanding of what would make it fair use.

15 And, therefore, I expounded on, for
 16 example, what -- what computer scientists would --
 17 would think about the elements of the fair use.

18 Q. Okay. When you said "what computer
 19 scientists will think about the elements of fair
 20 use," which elements are you referring to?

21 A. Well, since I don't have the law in front
 22 of me, I can't -- I -- I'm specifically
 23 thinking that the expectations would be that --
 24 that -- that it would be fair use to -- to use an
 25 API and re-implement it. And with a new

1 A. Yes, it appears to be.

2 Q. Okay. If you could please turn to
 3 page 6 of the expert report in front of you.

4 So do you agree that the summary of your
 5 opinions is set forth between paragraphs 28 and 31
 6 of your expert report?

7 A. Yes.

8 Q. And beyond the -- these opinions, did --
 9 articulated in your report, you don't intend to
 10 offer any other opinions in this case?

11 MR. KWUN: Objection. Form.

12 THE DEPONENT: I might offer more
 13 opinions, depending on what you ask me.

14 Q. (By Mr. Ramsey) Okay. So has -- have you
 15 been asked to -- to render any opinions beyond at trial
 16 what -- what is beyond what's in your report?

17 A. No.

18 Q. Okay. So if I understand it correctly,
 19 your -- your basic view is that computer scientists
 20 would expect to be able to reuse, for example, the
 21 method declarations in this case?

22 A. Yes.

23 Q. And do -- what do you base that on?

24 A. Well, in my 35 to 40 years in computer
 25 science, working with lots of companies, lots of

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1 people on lots of APIs in various contexts, I've
 2 dealt with many, many people and many companies
 3 about re-implementing APIs.
 4 And with -- with some exceptions, the
 5 general accepted practice, I believe, is that an
 6 API is not copyrightable, although it sounds like
 7 the court has decided otherwise now.
 8 And that even if it were, that it would
 9 be fair for somebody to implement the same API with
 10 their own code, a clean room implementation, not
 11 copying any of the original.
 12 Q. It's true that you never carried out a
 13 formal survey of Java --
 14 A. Yes.
 15 Q. -- developers; isn't that true?
 16 A. I haven't carried out a formal survey,
 17 no. It's just based on 40 years of talking to
 18 people.
 19 Q. All right. You -- you would agree with
 20 me that in the world today there are approximately
 21 9 million Java developers?
 22 MR. KWUN: Objection. Form.
 23 THE DEPONENT: I -- I can't quote the
 24 number.
 25 Q. (By Mr. Ramsey) Do you think it's a fair

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1 Q. And when you were work- -- working at
 2 Sun Microsystems, you worked on database
 3 technologies, correct?
 4 A. Yes.
 5 Q. You worked on aspects of Java EE; isn't
 6 that true?
 7 A. Yes.
 8 Q. But when you were at Sun, you did not
 9 work on Java SE or Java ME; isn't that true?
 10 MR. KWUN: Objection. Form.
 11 THE DEPONENT: I would say that I did
 12 work on them in the sense that I kibitzed on
 13 various designs that were part of Java SE with my
 14 colleagues that were in the same building. We were
 15 all in the same building on -- in Java Soft.
 16 Q. (By Mr. Ramsey) Did you have a -- you had no
 17 formal role on the Java SE team at Sun; isn't that
 18 true?
 19 MR. KWUN: Objection. Form.
 20 THE DEPONENT: Well, I was one of the two
 21 distinguished engineers in the Java Soft group that
 22 were thought leaders on where we were going and
 23 what we were doing. So I -- I focused mostly on
 24 databases and Java EE, and certain other things
 25 that I had some background in, like collections.

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1 assumption that there are millions of Java developers
 2 in the world today?
 3 A. Yes.
 4 MR. KWUN: Ob- -- objection. Form.
 5 Q. (By Mr. Ramsey) Is your answer "yes"?
 6 A. Yes.
 7 Q. Okay. You have not conducted any
 8 empirical survey of the millions of Java developers
 9 in the world today to -- and presented the results
 10 of that in your report; is that true?
 11 A. That's true.
 12 Q. You did no statistical analysis of the
 13 views of software developers -- Java developers in
 14 your report; isn't that true?
 15 A. That's true.
 16 Q. Do you -- do you program in Java for Java
 17 language today?
 18 A. Not -- not recently. But, yes, I have
 19 programmed in the Java programming language.
 20 Q. How long has it been since you programmed
 21 in the Java programming language?
 22 A. I'd say two or three years.
 23 Q. You were at Sun Microsystems in the
 24 1980s, 1990s, and up to about 2007, right?
 25 A. Yes.

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1 So I don't know how to answer your question
 2 exactly.
 3 Q. (By Mr. Ramsey) Well, my question was, you
 4 have -- you had no formal role on the Java SE team at
 5 Sun; isn't that true?
 6 MR. KWUN: Objection. Form.
 7 THE DEPONENT: Yeah, I don't know how --
 8 what a formal role would be exactly because we were
 9 pretty informal in Java Soft. But, no, I don't
 10 have a -- I didn't -- it wasn't in my title.
 11 Q. (By Mr. Ramsey) And if you could please take
 12 a look at your expert report.
 13 A. Okay.
 14 Q. I notice that there's no list of
 15 material -- materials that you considered as the
 16 basis for your expert report.
 17 A. Yes.
 18 MR. KWUN: Objection. Form.
 19 THE DEPONENT: Yes.
 20 Q. (By Mr. Ramsey) And do you agree with me
 21 that all of the materials that you used to -- to form
 22 the basis of your opinions are set forth in the body of
 23 your report?
 24 A. Yes. If I had to list all the materials
 25 that formed my opinion over the last 40 years, it

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<p>1 would be a very long list.</p> <p>2 Q. Okay. What do you mean by that?</p> <p>3 A. Well, I mean all of the email</p> <p>4 communication and API documents and -- and,</p> <p>5 you know, trade, rag articles and so on that are</p> <p>6 the basis for my opinion of the industry's</p> <p>7 expectations and -- and mode of operation.</p> <p>8 Q. Do you believe that there's any</p> <p>9 individuals in the software development community</p> <p>10 who believe that method declarations in Java should</p> <p>11 be protectable by copyright and not fair use?</p> <p>12 MR. KWUN: Objection. Form.</p> <p>13 THE DEPONENT: I can't name a specific</p> <p>14 person. But I believe that there are some people</p> <p>15 that agree that API should be copyrightable;</p> <p>16 otherwise, there wouldn't be this lawsuit.</p> <p>17 Q. (By Mr. Ramsey) Right.</p> <p>18 A. Yes.</p> <p>19 Q. So you agree with me that in the Java</p> <p>20 community there may be differing views, honest</p> <p>21 debate about whether APIs and method declarations</p> <p>22 are fair use or not?</p> <p>23 A. Yes. All I can say is most people I know</p> <p>24 don't think they should be copyrightable and thinks</p> <p>25 that it should be a fair use.</p>	<p>1 tell the Supreme Court that it should not be</p> <p>2 copyrightable, pretty much every one of the</p> <p>3 arguments applies to the same point, that it should</p> <p>4 be a fair use, even if they are copyrightable.</p> <p>5 Q. Right.</p> <p>6 Do you understand that the court of</p> <p>7 appeals for the federal circuit has found that the</p> <p>8 API declarations at issue in this case are</p> <p>9 copyrightable? Correct?</p> <p>10 A. Yes, that's my understanding.</p> <p>11 Q. And you -- you understand that it's</p> <p>12 appropriate to follow the law?</p> <p>13 A. Yes. I think they were wrong, but we</p> <p>14 have to follow the law.</p> <p>15 Q. Okay.</p> <p>16 A. But -- but all I'm saying is that these</p> <p>17 same arguments show that these 75 or 77, whatever,</p> <p>18 of the most prominent computer scientists agree</p> <p>19 with the point that -- about fair use indirectly</p> <p>20 here even though they were talking about the</p> <p>21 copyrightability.</p> <p>22 Q. All right. Did you talk about every one</p> <p>23 of the 75 --</p> <p>24 A. No.</p> <p>25 Q. -- software engineers that signed on to</p>
<p style="text-align: center;">Page 22</p> <p>1 Q. Okay. In forming your opinions in your</p> <p>2 report regarding expectations of developers, did</p> <p>3 you interview any software developers in</p> <p>4 particular?</p> <p>5 MR. KWUN: Objection. Form.</p> <p>6 THE DEPONENT: Since I wasn't allowed to</p> <p>7 talk to anybody about this case, once I signed up</p> <p>8 to be an expert, I wasn't in a position to go out</p> <p>9 and interview people about this particular debate.</p> <p>10 Q. (By Mr. Ramsey) Okay.</p> <p>11 A. But, you know, in -- in -- over 40 years,</p> <p>12 I -- I was privy to what people's opinions were in</p> <p>13 various companies and forums.</p> <p>14 Q. Okay. Are you able to name a -- a -- a</p> <p>15 single particular member of the Java development</p> <p>16 community that you've talked with that opined to</p> <p>17 you that the use of the method declarations should</p> <p>18 be fair use?</p> <p>19 A. I participated and was an author in this</p> <p>20 amicus brief to the Supreme Court on this, and</p> <p>21 there were 75 of the most prominent computer</p> <p>22 scientists involved in this.</p> <p>23 And if you read the report, you see</p> <p>24 pretty much they all agree with the point --</p> <p>25 although the -- the point of this report was to</p>	<p>1 the brief that you signed on to?</p> <p>2 A. No. I -- I do know that they signed --</p> <p>3 sorry. Go ahead.</p> <p>4 MR. KWUN: And just -- just a reminder,</p> <p>5 Dr. Cattell, that if you could wait for the</p> <p>6 question to be finished --</p> <p>7 THE DEPONENT: I will.</p> <p>8 MR. KWUN: -- before you start answering.</p> <p>9 THE DEPONENT: Thank you.</p> <p>10 MR. KWUN: If we could --</p> <p>11 MR. RAMSEY: It's not a real</p> <p>12 conversation.</p> <p>13 THE DEPONENT: Yes.</p> <p>14 MR. RAMSEY: It's about how we do these</p> <p>15 things.</p> <p>16 MR. KWUN: This is a perfect example of</p> <p>17 all three of us actually speaking over each other.</p> <p>18 THE DEPONENT: Yes.</p> <p>19 MR. KWUN: It's going to be very hard to</p> <p>20 get a clean record unless we all --</p> <p>21 THE DEPONENT: Yes.</p> <p>22 MR. KWUN: -- wait for one person to</p> <p>23 finish, so --</p> <p>24 THE DEPONENT: Yes.</p> <p>25 MR. KWUN: -- wait for one person -- wait</p>

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1 that, but I don't have any concrete example and
 2 I -- I'm -- I'm aware that today they do not seem
 3 to be doing so.
 4 Q. (By Mr. Ramsey) Okay. And -- and is your
 5 awareness of Microsoft's control over its Windows APIs
 6 based on your participation in the software development
 7 community?
 8 A. Could you repeat the question.
 9 Q. Is your awareness of Microsoft's control
 10 over its Windows API based on your participation in
 11 the software development community?
 12 A. Yes.
 13 Q. Do you believe that others in the
 14 software development community are aware of
 15 Microsoft's control over its Windows APIs?
 16 MR. KWUN: Objection. Form.
 17 THE DEPONENT: I would -- I would be
 18 guessing. So I would -- I would guess so.
 19 Q. (By Mr. Ramsey) Based on your many years of
 20 experience, do you believe that Microsoft's control
 21 over its Windows APIs is something that would be widely
 22 understood by software developers?
 23 MR. KWUN: Objection. Form.
 24 THE DEPONENT: Well, I think people would
 25 see Microsoft doing so as an attempt to -- to keep

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1 A. Yes.
 2 Q. I believe Phoenix was another IBM cloning
 3 company?
 4 A. Yeah, I think they -- they did a -- their
 5 own BIOS, yes.
 6 Q. And -- and it's your understanding that
 7 those companies conducted black box -- box testing
 8 of the IBM BIOS in order to generate their own API
 9 documentation without having to look at any IBM
 10 materials, true?
 11 A. Yes.
 12 Q. And so in the context of BIOS, the
 13 companies that created a new -- a new form of BIOS,
 14 if you will, did so without referencing the API
 15 spec- -- specifications of IBM at all?
 16 MR. KWUN: Objection. Form.
 17 THE DEPONENT: Yeah, it -- it's my
 18 understanding they did a clean room implementation,
 19 in which nobody who wrote the code had seen any of
 20 IBM's code, and they were creating their own
 21 implementation with -- just based on the API.
 22 Q. (By Mr. Ramsey) So what is your basis for
 23 knowing with certainty that the creators of Compaq and
 24 the Phoenix BIOS had access to the IBM API
 25 documentation?

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1 their monopoly on -- on the desktop, but not
 2 necessarily the right thing legally or morally, or
 3 for the rest of the industry.
 4 Q. (By Mr. Ramsey) All right. So you agree
 5 with me, as a factual matter, while developers may not
 6 like it, they might be aware that Microsoft exerted
 7 control over its Windows APIs?
 8 A. Yes. They might be.
 9 MR. KWUN: Objection. Form.
 10 THE DEPONENT: Oh, sorry.
 11 Q. (By Mr. Ramsey) Are you aware of any other
 12 companies, other than Microsoft, that exert control
 13 over the copying and use of their APIs?
 14 A. Off the top of my head, none come to
 15 mind. I'm aware that IBM did not do so with BIOS
 16 and that AT&T did not do so with UNIX. And I -- I
 17 think I gave some other examples in my report.
 18 Q. In your -- let's talk about the BIOS.
 19 So you agree with me that in the early
 20 days, there -- after IBM came out with its BIOS
 21 APIs, there were a number of PC clone companies,
 22 true?
 23 A. Yes.
 24 Q. For example, Compaq is such a company,
 25 true?

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1 MR. KWUN: Objection. Form.
 2 THE DEPONENT: I can't say that from
 3 direct experience.
 4 Q. (By Mr. Ramsey) All right. So it's possible
 5 that Compaq and Phoenix, in creating their own BIOS,
 6 had access to the IBM APIs, but they may not have, too?
 7 MR. KWUN: Objection. Form.
 8 THE DEPONENT: Well, it's certainly
 9 possible they had access to the APIs, yes.
 10 Q. (By Mr. Ramsey) But you don't know one way
 11 or the other with certainty whether the IBM
 12 clone-makers had access to the IBM API or not?
 13 MR. KWUN: Objection. Form.
 14 THE DEPONENT: Are you asking if they had
 15 access to the API, which they independently
 16 deduced, or to the source code which belonged to
 17 IBM?
 18 Q. (By Mr. Ramsey) I'm saying -- I'm asking you
 19 whether the -- whether the makers of the IBM clone
 20 computers had access to -- direct access to the IBM
 21 APIs.
 22 MR. KWUN: Objection. Form.
 23 THE DEPONENT: As I understand it, the
 24 APIs were not well -- well-documented in such a
 25 form that somebody could just read the APIs and

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1 build an implementation. But they were
 2 reverse-engineered; they figured out what the API
 3 was --
 4 Q. (By Mr. Ramsey) Is it --
 5 A. -- but I'm not sure.
 6 Q. -- your understanding that in the -- in
 7 the context of BIOS, the purpose of the resulting
 8 IBM clone computers was to be compatible with the
 9 IBM BIOS?
 10 A. That's my understanding, yes.
 11 Q. So in the context of BIOS, an application
 12 written for the IBM computer would run on the IBM
 13 clone computers and vice versa?
 14 A. Yes.
 15 Q. Now, you understand that in the context
 16 of Android, an application written for the Android
 17 platform will not run on the Java platform, true?
 18 MR. KWUN: Objection. Form.
 19 THE DEPONENT: Not necessarily. It might
 20 or might not run, depending on what subset of the
 21 platform you use.
 22 Q. (By Mr. Ramsey) You understand that the Java
 23 platform and the Android platform have different
 24 virtual machines?
 25 A. Yes, that's my understanding.

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1 A. No, I'm not aware of that.
 2 Q. Okay. Likewise, you never heard of a
 3 Java application compiled a byte code being run on
 4 the Android platform, true?
 5 MR. KWUN: Objection. Form.
 6 THE DEPONENT: I -- I can't say with
 7 certainty, no.
 8 Q. (By Mr. Ramsey) But you've never heard of a
 9 Java application being compiled and running on Android?
 10 MR. KWUN: Objection. Form.
 11 THE DEPONENT: Well, I guess I've heard
 12 of people who have written code in Java, then
 13 easily adapting them to run on Android, but I -- I
 14 don't know if you can do that without changing a
 15 line of code.
 16 Q. (By Mr. Ramsey) But you never heard of a
 17 situation where a Java application is compiled in a
 18 format that can run on the Java virtual machine and
 19 simply having that run in that form on Android?
 20 A. Right. So you're asking me questions
 21 about the Android platform byte code versus the
 22 Java byte code for the Java virtual machine and
 23 that is not my expertise. But as I understand it,
 24 the byte codes are different.
 25 Q. Okay. You've provided a number of

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1 Q. And it's true that if a developer writes
 2 a program in Android and compiles it and attempts
 3 to run it on the Java platform, it won't run
 4 because there's a different virtual machine there?
 5 A. Yes. I'm talking about the source code
 6 working on both platforms.
 7 Q. All right. I'm just -- my question is --
 8 is about whether Android applications run on Java.
 9 You agree with me that an Android
 10 application, written in the context of Android,
 11 compiled and then attempted to be run on the Java
 12 platform, simply won't run?
 13 MR. KWUN: Objection. Form.
 14 THE DEPONENT: I don't know that for
 15 certain, but I'm guessing that the -- the byte
 16 codes generated won't be exactly compatible.
 17 Q. (By Mr. Ramsey) All right. So you agree
 18 that an Android application cannot be executed on the
 19 Java platform?
 20 MR. KWUN: Objection. Form.
 21 THE DEPONENT: I don't know. I don't
 22 think so.
 23 Q. (By Mr. Ramsey) Okay. You never heard of an
 24 Android application that's compiled to byte code being
 25 run directly on the Java platform, true?

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1 examples of APIs in your report; isn't that true?
 2 A. Yes.
 3 Q. So we've talked about BIOS. That's one
 4 example of an API in your --
 5 A. Yes.
 6 Q. -- in your report, right?
 7 You talk about the -- the Linux APIs in
 8 your report as an example, true?
 9 A. Yes, I do.
 10 Q. You talk about SQL APIs in your -- your
 11 report, true?
 12 A. Yes, I do.
 13 Q. You talk about Wine as a set of APIs in
 14 your -- in your report, true?
 15 A. Yes.
 16 MR. KWUN: Objection. Form.
 17 Q. (By Mr. Ramsey) So if I refer to -- to the
 18 other APIs, can we use that as a shorthand when I'm --
 19 for us -- for me to refer to all of the APIs that you
 20 address in your report?
 21 A. By the "other APIs," you mean all the
 22 ones except for the -- the Java APIs in question?
 23 Q. Correct.
 24 A. Right. Okay. So, yeah, we can call
 25 those all the other APIs.

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10 (Pages 34 - 37)

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<p>1 Would those includes ones that I haven't 2 mentioned in my report or only those ones? 3 Q. Only the ones in your report. 4 A. Okay. 5 Q. So you agree with me that all of the 6 other APIs beyond Java that are discussed in your 7 report do not contain the -- the method 8 declarations and the organization of the Java APIs 9 that are actually at issue? 10 MR. KWUN: Objection. Form. 11 THE DEPONENT: I'm not sure I understand 12 the question. The simple answer is, of course, 13 they don't. It's a different language. It's a 14 different -- it's a different -- they may -- they 15 may not even have method declarations, but they 16 have the equivalent of that in other languages. 17 Q. (By Mr. Ramsey) Okay. That would -- 18 actually was my question. 19 Just simply, the other examples of APIs 20 addressed in your report do not contain the 21 specific Java-based method declarations or 22 organization that are actually at issue in this 23 case? 24 MR. KWUN: Objection. Form. 25 THE DEPONENT: Yes, there are different </p>	<p>1 your report are about communication between programs? 2 MR. KWUN: Objection. Form. 3 THE DEPONENT: I don't know. I'd have to 4 look at that. 5 I don't know. It seems like there's some 6 of both. I mean, like, say -- take something like 7 a square root routine that -- that's an interface 8 between a program and -- and a library. It may be 9 a math library. It might or might not be part of a 10 platform. 11 BIOS is definitely a platform. SQL can 12 be between two programs and maybe not between a 13 program and a platform, or you might use SQL to 14 talk to multiple database systems from the same 15 program. 16 I guess I don't have a simple answer to 17 your question. 18 Q. (By Mr. Ramsey) Okay. If you could please 19 turn to paragraph 38 of your report. Let me know when 20 you're there. 21 A. Yes. 22 Q. In paragraph 38, you talk about two 23 methods, square root and max, true? 24 A. Yes. 25 Q. And it's true that in your expert report </p>
<p>Page 38</p> <p>1 APIs, so they would have different things in them. 2 Q. (By Mr. Ramsey) And for all the other APIs, 3 beyond Java that are discussed in your report, it's 4 possible that in -- in -- at least some of those 5 contexts, the idea and the purpose of those APIs is to 6 create compatibility between two different platforms. 7 One -- in other words, a programmer data 8 in one platform will naturally easily run on the 9 other platform? 10 MR. KWUN: Objection. Form. 11 THE DEPONENT: That is one possible 12 purpose of an API. The more -- the -- I would say 13 the -- the main reason for an API is to find a way 14 for two pieces of software to talk to one another, 15 regardless of platform and -- I mean, it doesn't 16 even have to be a platform API. It could just be 17 an interface between two components. 18 I spent -- I spent many years working in 19 the object management group defining APIs that were 20 interfaces between pieces that were implemented by 21 different companies. So the API there was not so 22 much about platform but about communication between 23 programs. 24 Q. (By Mr. Ramsey) All right. In general, do 25 you believe that the other APIs that you address in </p>	<p>Page 40</p> <p>1 square root and max are the only two examples of 2 Java method declarations that you specifically 3 address? 4 MR. KWUN: Objection. Form. 5 THE DEPONENT: I'm not certain those are 6 the only two, but those seem like simple examples 7 that I could explain to a layman. 8 Q. (By Mr. Ramsey) So you chose simple examples 9 of square root and math in -- max in your report simply 10 because they are easy to explain? 11 A. Yes. 12 MR. KWUN: Objection. Form. 13 Q. (By Mr. Ramsey) Could you please flip 14 through your report for a minute. I -- I'd just like 15 you to confirm that beyond the square root and max 16 method names, you don't specifically mention any other 17 Java method declaration in your report. 18 A. Well, okay, I'll take a look through 19 this. 20 Yes, at first glance, those are the only 21 Java examples I have. Most of them are other 22 programming languages. 23 Q. And you understand that there are 24 thousands of method declarations at issue in this 25 lawsuit? </p>

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11 (Pages 38 - 41)

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1 A. Yes.
 2 Q. And you've addressed two method names,
 3 true?
 4 A. Yes. I'm giving examples.
 5 Q. Okay. But you've done no statistical
 6 analysis of, for example, the length of method
 7 names, even within the Java platform, true?
 8 A. The length of method names? You mean how
 9 many characters there is in the name?
 10 Q. Correct.
 11 A. No.
 12 Q. And you've done no statistical analysis
 13 of the length of method declarations at issue in
 14 this case, true?
 15 A. No, no statistical analysis.
 16 Q. Okay. And you've not looked or listed
 17 anywhere in your report the full lists of thousands
 18 of method declarations that are at issue in this
 19 case, true?
 20 A. No, I have not. I'm -- I am familiar
 21 with the -- the Java APIs. And as I understand,
 22 there's 37 of those APIs at issue, and I have in my
 23 head a rough idea of how big those APIs are.
 24 Q. Okay. But my -- my question is, you've
 25 done no specific analysis beyond looking at the

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1 A. The word "organization" is -- is not
 2 well-defined in this context, I believe, so --
 3 define organization.
 4 Q. All right. I note in your report that
 5 you do not discuss the decisions about which
 6 methods to group in which classes, which classes to
 7 group within which packages in Java, for example.
 8 A. Yes, that's true.
 9 Q. So you have no -- express no opinions in
 10 your report regarding the -- the organization? And
 11 by that I mean, grouping of methods, classes and
 12 packages.
 13 MR. KWUN: Objection. Form.
 14 THE DEPONENT: I think I might have said
 15 something about the grouping. I can't remember.
 16 There -- that -- if -- you know, if this -- if this
 17 method happened to be in a different package versus
 18 this package, that would be a -- you know, that
 19 would be just like another variation on a different
 20 name for the method. It's just a different
 21 interface for the same thing.
 22 Q. (By Mr. Ramsey) Well, I -- I didn't see
 23 anything in your report that talked about decisions to
 24 group methods, classes and packages within Java.
 25 A. Uh-huh. All right.

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1 names of square -- square root and max of any other
 2 aspect of the method declarations at issue?
 3 MR. KWUN: Objection. Form.
 4 THE DEPONENT: I'm not sure I understand
 5 the question because -- I mean, I've looked at some
 6 of the other APIs at issue. So are you saying I
 7 haven't thought about those or are you saying I
 8 haven't -- I haven't listed those or specifically
 9 used them as an example?
 10 Q. (By Mr. Ramsey) I'm saying, you've not
 11 specifically listed or addressed in your report -- in
 12 your expert report, any Java method declarations beyond
 13 the names square root and max?
 14 A. That's right. I was trying to keep it
 15 simple.
 16 Q. Okay. It's possible that there's much
 17 longer and complex method names and method
 18 declarations in the Java API, correct?
 19 A. It's possible.
 20 Q. And by much longer and more complex, I
 21 mean more longer -- longer and more complex than
 22 the name square root and max.
 23 A. Yes.
 24 Q. I note that nowhere in your report do you
 25 address the organization of the Java API, true?

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1 MR. KWUN: Object. There's no question
 2 pending.
 3 Q. (By Mr. Ramsey) If you could show me where
 4 you -- you mention such an issue, please take a moment
 5 to do that.
 6 A. Okay. I may be thinking of the amicus
 7 brief, but -- let me look through here.
 8 Q. Sure.
 9 A. Well, on item 41, I give the example
 10 if -- if I don't know -- there's different options
 11 and different ways of calling the square root
 12 functionality. And I might have to look up the
 13 right API for this context.
 14 That's kind of an example of where I
 15 don't know where the square root routinely is. It
 16 might be in a different class or in a different
 17 package. But that's not exactly the example I was
 18 thinking of when I said that.
 19 Q. Okay.
 20 A. I would say that moving a method to a
 21 different class or reorganizing the API a little
 22 would be another example of like just a different
 23 spelling. It's not fundamental, but it's a -- it's
 24 a -- it's a change to the API that is maybe
 25 spurious to me, as a programmer, to have it moving

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12 (Pages 42 - 45)

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1 that Sun, now Oracle, will have some modicum of
 2 control over the Java platform?
 3 MR. KWUN: Objection. Form.
 4 THE DEPONENT: I don't know if it's so
 5 much about control is their ability to -- to
 6 publish and disseminate the code and so on. So I
 7 don't think the community process is for Sun or
 8 Oracle to have control, so much as for them to be
 9 able to -- to bring together all of these ideas
 10 from different sources.
 11 Q. (By Mr. Ramsey) You agree that from time to
 12 time, through the Java Community Process, new Java APIs
 13 are created, true?
 14 A. Yes.
 15 Q. And the creators of these new APIs
 16 contribute their right in the API to Sun, now
 17 Oracle, true?
 18 MR. KWUN: Ob- -- objection. Form.
 19 THE DEPONENT: Yes, that's my
 20 understanding.
 21 Q. (By Mr. Ramsey) Have you heard of a concept
 22 called write once/run anywhere with respect to Java?
 23 A. Yes, I have.
 24 Q. What is your understanding of write
 25 once/run anywhere?

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1 THE DEPONENT: Well, I don't know if I
 2 can speculate on why Sun did that, whether the
 3 executive level made that decision or why. But I
 4 can understand that would be very attractive to
 5 people because -- especially with the advent of the
 6 Internet, it was very hard to write code that would
 7 run in all the different browsers and on all the
 8 different platforms.
 9 Q. (By Mr. Ramsey) And let's be clear. By
 10 write once/run anywhere, in the context of Java, we
 11 mean an application written in Ja- -- a particular Java
 12 platform specification, for example, Java SE --
 13 A. Yes.
 14 Q. -- in one context will run on that same
 15 platform specification in another context?
 16 MR. KWUN: Objection. Form.
 17 THE DEPONENT: Yes, that's my
 18 understanding.
 19 Q. (By Mr. Ramsey) And the idea is under --
 20 under Java SE, is that if you write an application in
 21 one place in Java SE, it should be able to run every
 22 place where Java SE is running?
 23 A. Yes, that's my understanding.
 24 Q. And it's true that one of the ways Sun
 25 made sure that Java applications could be written

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1 A. The idea is if you write a Java program,
 2 it should run on any Java implementation. But it
 3 pretty much -- Sun gave it up when they started
 4 defining multiple Java platforms like the ME
 5 platform and the EE platform.
 6 Q. Well, you agree that the write once/run
 7 anywhere principle holds within the context of
 8 Java SE, in particular, for example?
 9 A. Yeah, within --
 10 MR. KWUN: Objection. Form.
 11 THE DEPONENT: Oh, sorry.
 12 Yes, within a platform -- well, even in
 13 the case of SE, there's some variations. But, yes,
 14 that's the idea.
 15 Q. (By Mr. Ramsey) Okay. So isn't it true the
 16 write once/run anywhere idea holds within the context
 17 of a given platform definition by Sun or Oracle?
 18 MR. KWUN: Objection. Form.
 19 THE DEPONENT: Well, I can't say it holds
 20 in all cases, but that's the idea, yes.
 21 Q. (By Mr. Ramsey) Why did Sun put forward this
 22 idea of having a write once/run anywhere prin- --
 23 principle carried out through a particular Java
 24 platform?
 25 MR. KWUN: Objection. Form.

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1 once and run anywhere Java exists is by controlling
 2 how people use the APIs?
 3 MR. KWUN: Objection. Form.
 4 THE DEPONENT: Well, they control the --
 5 the definitions of the APIs, and then other people
 6 would choose to conform or not, if they want it to
 7 run everywhere.
 8 Q. (By Mr. Ramsey) Are you familiar with a Sun,
 9 and now Oracle, agreement called the specification
 10 license?
 11 A. Roughly, no. I -- my experience would be
 12 10 or 15 years old on -- on that.
 13 Q. Okay. What do you know about the Sun,
 14 now Oracle, specification license as it relates to
 15 Java?
 16 A. What I knew when I was working on the
 17 Java Community Process, that when somebody signed
 18 up to participate, then they signed an agreement
 19 for the community process participation. And I
 20 don't know what they're calling their latest
 21 specification license.
 22 Q. Okay. I'll represent to you that the
 23 specification license is a license that applies to
 24 the API documentation for Java.
 25 A. Okay.

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15 (Pages 54 - 57)

<p>1 Q. Well, I'm just trying to understand the 2 nature of Apple's actions, as you understand them, 3 regarding Apple's own APIs. 4 What do you know about that? 5 MR. KWUN: Objection. Form. 6 THE DEPONENT: I haven't tried to write 7 an iPhone app or an iPad app. But I have a number 8 of friends who have tried to do so and have -- have 9 run afoul of Apple for reasons that made no sense 10 to me. 11 Q. (By Mr. Ramsey) But I'm trying to 12 specifically understand what you know about Apple's 13 activities -- you know, enforcement activities, for 14 lack of better word, regarding its own APIs -- 15 MR. KWUN: Objection -- 16 Q. (By Mr. Ramsey) -- not other issues. 17 MR. KWUN: Objection. Form. 18 THE DEPONENT: Well, this wasn't so much 19 about APIs. It was about what applications they 20 were going to allow on their platform. 21 So, for example, if Google Maps was 22 duplicated by some Apple app that did mapping, as I 23 believe it was, then Apple could tell Google that 24 you can't put Google Maps on our platform. 25 Q. (By Mr. Ramsey) Okay.</p>	<p>1 API, I don't think they'd be -- I don't think they 2 should be restricted from doing so. 3 Q. (By Mr. Ramsey) Doesn't the Exhibit 5168, 4 the letter from Google to Routebuilder, discuss re- -- 5 limitations on re-implementation? It even says 6 "re-implement"? 7 A. They're talking about -- 8 MR. KWUN: Objection. 9 THE DEPONENT: Sorry. 10 MR. KWUN: Objection. Form. 11 THE DEPONENT: They're talking about the 12 application, not the API. 13 Q. (By Mr. Ramsey) All right. So you'd agree 14 with me that this lawsuit between Oracle and Google 15 does not involve the JDBC API mentioned in your report, 16 true? 17 MR. KWUN: Objection. Form. 18 THE DEPONENT: I don't know. I didn't 19 study -- check to see if -- if it did in the 20 37 APIs they talked about. 21 Q. (By Mr. Ramsey) Well, there's nothing in 22 your report that discusses any relationship between the 23 JDBC API and the 37 APIs at issue in this case? 24 A. You mean I didn't mention whether JDBC 25 was one of the 37?</p>
<p>Page 78</p> <p>1 A. But, again, this is beyond my area of 2 expertise. It's just my -- what I've 3 heard about -- but much more cases than this one. 4 Q. Okay. 5 A. I think it's difficult for a large 6 company, with having millions of small developers 7 putting up apps, to be able to try to -- to enforce 8 much of anything there. And there -- this may be a 9 case of a misunderstanding about the app, for all I 10 know. 11 Q. But you -- in -- in preparing your 12 report, you didn't, for example, conduct database 13 research or news research regarding efforts by 14 other companies beyond Oracle to enforce their 15 rights and their APIs? 16 MR. KWUN: Objection. Form. 17 THE DEPONENT: No, I didn't do a 18 systematic study of that. But, again, I'll point 19 out that this objection is not really related to 20 what I'm talking about in my expert report. 21 In my expert report, I'm talking about 22 someone being able to re-implement the API, not 23 about -- it's not about using the API, which is 24 what Google is objecting to and -- so if -- if this 25 person wanted to implement their own Google Maps</p>	<p>Page 80</p> <p>1 Q. True. 2 A. Yes, that's correct. 3 Q. So you'd agree with me that the lawsuit 4 between Oracle and Google does not involve the Wine 5 APIs -- W-I-N-E -- Wine APIs mentioned in your 6 report? 7 A. That's true. 8 Q. And you agree with me that this lawsuit 9 between Oracle and Google does not involve the IBM 10 BIOS APIs? 11 A. That's true. 12 Q. Okay. And you agree that this lawsuit 13 between Oracle and Google does not involve the SQL 14 APIs? 15 A. That's true. 16 Q. Okay. You agree with me that this 17 lawsuit between Oracle and Google does not involve 18 the Linux APIs? 19 A. That's true. 20 Q. I'd like to talk about the SQL APIs for a 21 moment. 22 A. Okay. 23 Q. It's your understanding that the SQL APIs 24 were standardized as part of a formal 25 standard-setting process, true?</p>

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21 (Pages 78 - 81)

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1 Q. Okay. What was your view of Sun at the
 2 time that you were laid off in 2007?
 3 MR. KWUN: Objection. Form.
 4 THE DEPONENT: I was discouraged that Sun
 5 was not funding any of the projects that I felt
 6 would be innovative enough to pull it out of the --
 7 the tailspin it appeared to be in.
 8 Q. (By Mr. Ramsey) So in 2007, you were not
 9 happy with Sun's business strategies as they relate to
 10 you?
 11 MR. KWUN: Objection. Form.
 12 THE DEPONENT: Well, I actually was
 13 relatively happy with Jonathan Schwartz as a CEO,
 14 but somehow in the execution Sun was falling into
 15 some -- some -- some traps.
 16 Q. (By Mr. Ramsey) Okay. Were you involved
 17 with Sun's efforts around Java in the mobile industry?
 18 A. A little bit. A little bit. I was
 19 advising someone who was working on that.
 20 MR. KWUN: Dr. Cattell, you should try to
 21 make sure you wait until Mr. Ramsey has finished
 22 with his questions.
 23 THE DEPONENT: I'm sorry.
 24 Q. (By Mr. Ramsey) What was your involvement
 25 in -- in Sun's efforts around Java and mobile?

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1 of -- the -- the main interest area.
 2 Q. (By Mr. Ramsey) You've never written a -- an
 3 API specifically for a -- a mobile device, correct?
 4 MR. KWUN: Objection. Form.
 5 THE DEPONENT: That's correct. I've only
 6 participated.
 7 Q. (By Mr. Ramsey) What did you do to prepare
 8 for your deposition today?
 9 MR. KWUN: Objection. I'm just going to
 10 caution the witness, you can talk about who you met
 11 with, how long you met with them --
 12 THE DEPONENT: Yeah.
 13 MR. KWUN: -- but you shouldn't discuss
 14 any of the substance of your communications with
 15 me.
 16 THE DEPONENT: Yes. So my -- my
 17 preparation for this meeting has mostly consisted
 18 of research on the Internet to look at other
 19 examples, to look at the background of the case,
 20 and so on.
 21 Since I wasn't supposed to talk to anyone
 22 about the case, I wasn't able to do any surveys, or
 23 anything else, as you were discussing, yes.
 24 Q. (By Mr. Ramsey) Okay. You're not an
 25 economist, correct?

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1 A. I worked with a more junior engineer,
 2 whose name I don't recall at the time, but he was
 3 one of the leaders on an attempt to capture some of
 4 the ME space.
 5 And he was having a bit of an uphill
 6 battle getting the -- the companies to sign up for
 7 it. And I gave him some suggestions and we talked
 8 about what should not belong in the API and what
 9 should. So yeah...
 10 Q. And who was the gentleman that you talked
 11 with?
 12 A. I can't remember that off the top of my
 13 head, but I could find out.
 14 Q. Okay. You understand that Java ME was in
 15 a great number of mobile phones, true?
 16 MR. KWUN: Objection. Form.
 17 THE DEPONENT: I -- I don't know how many
 18 mobile phones it ended up in.
 19 Q. (By Mr. Ramsey) All right. Was your role
 20 at -- at Sun regarding Java primarily with respect to
 21 databases and servers, not mobile?
 22 MR. KWUN: Objection. Form.
 23 THE DEPONENT: That was my main focus.
 24 But a distinguished engineer at Sun is expected to
 25 have broader impact than -- than narrow interest

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1 You're not an economist?
 2 A. I am only an economist -- well, yes, I'm
 3 not an economist, right.
 4 Q. You don't --
 5 A. But I've had a lot of experience in
 6 40 years in computer science seeing what has
 7 economically worked and failed for software
 8 companies and APIs.
 9 Q. All right. But you're not being put
 10 forward as an -- an economist expert in this case?
 11 A. Yes.
 12 Q. And you don't have a Ph.D. in economics,
 13 true?
 14 A. Correct.
 15 Q. You've never worked as an economist,
 16 true?
 17 A. True.
 18 Q. You don't have a background in market
 19 analysis; isn't that true?
 20 MR. KWUN: Objection. Form.
 21 THE DEPONENT: I would say I have a
 22 background in market analysis because it's
 23 something that has always interested me, to see
 24 what succeeds and -- in fact, I'm working on a book
 25 on things I wish I'd learned in engineering school

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24 (Pages 90 - 93)

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1 about what will succeed and fail. And most of the
 2 things don't have to do with good engineering; they
 3 have to do with a lot of other things, like
 4 management and marketing.

5 Q. (By Mr. Ramsey) But you don't have any --
 6 you don't have a Ph.D., for example, in analyzing
 7 market impacts of particular business decisions?

8 A. No. That's not my academic background,
 9 anyway.

10 Q. Okay. And you've spent your career as an
 11 engineer; isn't that true?

12 A. I -- a very senior engineer who tends to
 13 do more market analysis than coding.

14 Q. Okay. You've never conducted any formal
 15 study regarding the market for Java SE or Java ME;
 16 isn't that true?

17 MR. KWUN: Objection. Form.

18 THE DEPONENT: I need you to define
 19 "formal" because I have -- I conducted interviews
 20 of -- of people who like would come to the Sun
 21 booth and -- and ask them about their applications
 22 on so-and-so. I have done -- done informal
 23 surveys, I guess I would say.

24 Q. (By Mr. Ramsey) Okay. In your expert
 25 report, you provide no formal survey of the market for

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1 actually apply that knowledge in your -- in your
 2 opinions in this case?

3 MR. KWUN: Objection. Form.

4 THE DEPONENT: Only informally.

5 Q. (By Mr. Ramsey) So informally, how -- how
 6 many -- how many software engineers did you interview
 7 in your sample size?

8 MR. KWUN: Objection. Form.

9 THE DEPONENT: Well, thousands. If -- if
 10 you mean over the -- over the decades, software
 11 engineers I've talked to about issues related to
 12 this, but I don't have -- but I don't have any hard
 13 records of that.

14 Q. (By Mr. Ramsey) Okay. So it's your
 15 assertion that you've talked to thousands of engineers,
 16 over the course of your career, about issues related to
 17 this case, but you have no -- no way to demonstrate
 18 that?

19 A. Correct.

20 MR. KWUN: Objection. Form.

21 THE DEPONENT: Sorry.

22 MR. RAMSEY: If you could please mark the
 23 next exhibit.

24 (Exhibit 5169 was marked for identification by
 25 the court reporter and is attached hereto.)

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1 Java SE or Java ME, true?

2 A. True.

3 Q. Isn't it true that you do not have a
 4 degree in statistics?

5 A. No. I've taken a lot of statistics and
 6 mathematics courses.

7 Q. You never worked, in your career, as a
 8 statistician; that's never been your job, true?

9 A. Well, I -- I wrote some programs to do
 10 statistical analyses at one time. But, no, I'm
 11 not -- I wasn't known as a statistician.

12 Q. You've not been hired in this -- this
 13 case as a statistics expert; is that --

14 A. Correct.

15 Sorry.

16 Q. And you're not claiming to be a
 17 statistics expert, are you?

18 MR. KWUN: Objection. Form.

19 THE DEPONENT: I don't know what that
 20 means. I'm -- I -- I guess I could say I'm more --
 21 know more about statistics than most people. So
 22 does that make me an expert?

23 Q. (By Mr. Ramsey) Okay. Let's assume that you
 24 know more about statistics than -- than most people.

25 Notwithstanding that fact, you didn't

1 Q. (By Mr. Ramsey) All right. You've been
 2 handed a document marked Exhibit 5169.

3 A. Yes.

4 Q. Do you recognize this document?

5 A. I do, yes.

6 Q. What is this document?

7 A. This is a book that I published with some
 8 other Sun employees describing the JDBC API.

9 Q. And am I correct that the JDBC API is a
 10 Sun database API that you created?

11 A. Yes.

12 Q. And isn't it true that the exhibit that
 13 you've hand- -- you're looking at now, entitled
 14 "JDBC API Tutorial and Reference," second edition,
 15 is the specification for your -- your JDBC API?

16 MR. KWUN: Objection. Form.

17 THE DEPONENT: I -- I would say yes.

18 Q. (By Mr. Ramsey) Okay. If you could please
 19 turn to the -- the fifth page into the document. It
 20 has a copyright notice at the top of the page.

21 A. Okay.

22 Q. So on the fifth page of your JDBC API
 23 specification, you agree with me that there is a
 24 license under which Sun grants rights to this
 25 material; isn't that true?

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25 (Pages 94 - 97)

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1 Q. Okay. I'm going to read for you
 2 section 1.5 from the ACM code of conduct, which is
 3 entitled "Honor property rights including
 4 copyrights and patent."

5 A. Yes.

6 Q. I quote the ACM code of conduct now.
 7 "Violation of copyrights, patents, trade
 8 secrets and the terms of license agreements is
 9 prohibited by law in most circumstances. Even when
 10 software is not so protected, such violations are
 11 contrary to professional behavior."

12 Do you agree with that statement of the
 13 ACM?

14 MR. KWUN: Objection. Form.

15 THE DEPONENT: I agree with that
 16 statement when correctly interpreted, yes.

17 Q. (By Mr. Ramsey) Okay.

18 A. I -- they -- the -- the issue in question
 19 here has to do with fair use of copyright and
 20 exactly what should be copyrightable.

21 I will note that many ACM fellows and
 22 other distinguished ACM members probably, you know,
 23 in the top 1 percent, cosigned the amicus brief
 24 with me arguing that this was a misapplication of
 25 copyright.

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1 declarations should be protected by copyright and
 2 the copying of them is not fair use.
 3 That's some -- that's one portion of the
 4 community?

5 MR. KWUN: Objection. Form.

6 THE DEPONENT: Yes. I imagine there's
 7 some portion. I'm not sure how big it is. And I
 8 imagine it's heavy loaded towards companies that
 9 want to protect their APIs.

10 Q. (By Mr. Ramsey) Right. So there are
 11 companies who want to protect their APIs --

12 A. Yes.

13 Q. -- in existence today?

14 A. Yes. Protecting their APIs is a
 15 two-edged sword because it means there's less
 16 corporation with -- in the industry and,
 17 ultimately, less progress, I believe.

18 Q. All right. So companies have to make the
 19 decision, is it better for us to attempt to prevent
 20 copying of our API declarations, for example, or
 21 are we going to put them out there for others to
 22 use.

23 That's a business decision that companies
 24 make from time to time?

25 A. Yes.

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1 Q. Do -- do you think that it's true that
 2 this -- this -- the present lawsuit, Oracle versus
 3 Google, gendered some strong opinions in the
 4 software development community?

5 A. I imagine it did, yes. We certainly got
 6 75 of us, or 77 of us, to strongly object to -- to
 7 the -- their -- or Supreme Court refusing to hear
 8 this case.

9 Q. Do you agree, though, that there are
 10 arguments on both sides. There are many voices in
 11 the debate about whether the APIs in this case are
 12 protected or not?

13 A. Yes. There are many voices, depending on
 14 whether you -- I mean, my -- I'm interested in this
 15 case because, as a computer scientist, I'd like to
 16 see progress in computer science instead of the
 17 kind of trouble we get with patent trolls and all
 18 the intellectual property mess we get into.

19 Q. You agree that in the current debate
 20 regarding whether fair use should apply to the
 21 37 APIs at issue in this case, there are a spectrum
 22 of different positions articulated publicly?

23 A. Yes.

24 Q. And there are some people involved in the
 25 debate in the software community that say, yes, API

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1 MR. KWUN: Objection. Form.
 2 THE DEPONENT: They could do that, yes.
 3 Q. (By Mr. Ramsey) And some companies may
 4 decide it's better to attempt to prevent copying for --
 5 of our APIs and some companies may choose the opposite?

6 MR. KWUN: Objection. Form.

7 THE DEPONENT: They might. There might
 8 be some legal issues here, too, with monopolistic
 9 practices, especially if it's a very important API.

10 Q. (By Mr. Ramsey) You're aware that
 11 historically some companies have decided it's better to
 12 attempt to prevent copying of their APIs and other
 13 companies who chose the opposite?

14 MR. KWUN: Objection. Form.

15 THE DEPONENT: Well, we have at least one
 16 example of -- of a company who, at least at one
 17 time, tried to keep people from using --
 18 re-implementing their APIs, yes.

19 Q. (By Mr. Ramsey) Okay.

20 A. And --

21 Q. Do you -- do you believe today that
 22 companies continue to -- in some instances, attempt
 23 to prevent copying of their APIs, beyond Oracle,
 24 and other companies choose the opposite?

25 MR. KWUN: Objection. Form.

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1 THE DEPONENT: Generally, I would say
 2 not. It seems to me a vast majority of companies
 3 allow someone else to implement their API.
 4 Q. (By Mr. Ramsey) When -- the companies that
 5 allow others to implement their APIs, do they sometimes
 6 request royalties for that right?
 7 MR. KWUN: Objection. Form.
 8 THE DEPONENT: I'm not aware of that, no.
 9 Q. (By Mr. Ramsey) You agree that that would
 10 not be an irrational thing for a company to do, to
 11 demand royalties if another is re-implementing that
 12 company's APIs?
 13 MR. KWUN: Objection. Form.
 14 THE DEPONENT: I think it's actually
 15 irrational in the sense that they shouldn't be able
 16 to demand money for someone re-implementing the
 17 same API.
 18 Q. (By Mr. Ramsey) So you -- you -- it is your
 19 belief that if a company has invested in creating APIs,
 20 they should not be able to charge any royalty for that,
 21 for their use of re-implementation?
 22 A. As -- as a general rule. But I -- I
 23 don't see the API, itself, as being a great
 24 investment compared with the implementation, which
 25 is maybe 10 times bigger or -- or more, while the

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1 somebody put the steering wheel on the left side of
 2 a car and the gear shift in the center, with four
 3 on the floor, and then they claimed a copyright on
 4 that layout so no other car company could do that,
 5 then that's more like a method of operation that --
 6 that hurts the public, that things don't
 7 interoperate and they're not compatible.

8 You should always try to use the API that
 9 somebody has already defined. It's good computer
 10 science and it's good industry practice, and it's
 11 bad for everybody if you don't do that.

12 Q. (By Mr. Ramsey) So in your report, did you
 13 actually do any analysis of whether the other APIs --
 14 and by that I mean, for example, Wine, SQL, Linux and
 15 the other examples -- have been found to be protected
 16 by copyright or not?

17 A. The -- if you look at the -- at what
 18 people in the industry think, in general, it seems
 19 to be that the expectation is that you should be
 20 able to reuse an API. And, in fact, that that's
 21 good practice.

22 Q. My question was a little different.

23 You didn't do any research, in carrying
 24 out your investigation, whether there had been a
 25 judicial finding, one way or the other, of whether

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1 API is more like a method of operation that should
 2 be protected by a patent but not a copyright.
 3 Q. So you -- do you believe that it's
 4 irrational, if a company has invested a great
 5 amount of resources in designing an elaborate API,
 6 that they would attempt to charge a royalty for the
 7 re-implementation of that API -- API that required
 8 the investment?
 9 MR. KWUN: Objection. Form.
 10 THE DEPONENT: I -- I don't know how to
 11 answer that question. I think I already answered.
 12 I think that -- that it's a bad thing to
 13 demand money for someone to implement the same
 14 method of operation that somebody else used.
 15 Q. (By Mr. Ramsey) The question is, do you
 16 think that it is -- it is rational for a company to
 17 request a royalty for implementation of the -- their
 18 API, if they've invested an enormous -- enormous amount
 19 of resources into actually designing the API?
 20 MR. KWUN: Objection. Form.
 21 THE DEPONENT: I don't know anyone that's
 22 investing enormous amounts of effort in an API for
 23 Java. I think that was a -- that was a relatively
 24 modest effort by comparison to the overall thing.
 25 And I would draw the analogy to like if

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1 any of the other APIs you address are protected by
 2 copyright?

3 A. You mean did I search on the specific
 4 case of, say, the BIOS to see if some court had
 5 ruled that the code itself could be -- the API
 6 itself could be copyrighted?

7 Q. Correct.

8 A. I did search the Internet a bit on that
 9 and I didn't find anything.

10 Q. Right.

11 So you have no -- you don't -- you don't
 12 actually know, one way or the other, whether any of
 13 the APIs that you address in your report have been
 14 found to be copyrightable or uncopyrightable?

15 A. No.

16 MR. KWUN: Objection. Form.

17 THE DEPONENT: Yeah, and that's a problem
 18 with your Internet searches. You can't usually get
 19 a definitive answer.

20 Q. (By Mr. Ramsey) Okay. But I just -- I just
 21 want to be clear.

22 You don't actually know, one way or the
 23 other, and did not look at whether the APIs
 24 addressed in your report were found to be
 25 copyrightable or uncopyrightable?

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<p>1 brand-new set of APIs?</p> <p>2 MR. KWUN: Objection. Form.</p> <p>3 Q. (By Mr. Ramsey) I just want to know about</p> <p>4 capability.</p> <p>5 MR. KWUN: Objection. Form.</p> <p>6 THE DEPONENT: Yeah, certainly</p> <p>7 programmers are able to learn new APIs. They may</p> <p>8 choose not to do so if you put too many blockades</p> <p>9 in their path.</p> <p>10 Q. (By Mr. Ramsey) Okay. Have you ever created</p> <p>11 a programming platform?</p> <p>12 A. Yeah. Depending on how you define a</p> <p>13 programming platform, yes.</p> <p>14 Q. Describe for me the programming platform</p> <p>15 that you created.</p> <p>16 A. Well, in some sense, every -- every</p> <p>17 library I've ever implemented is a platform of</p> <p>18 sorts. If what you mean is a platform that</p> <p>19 completely covers the operating system and there's</p> <p>20 no other things you can call, I would say not.</p> <p>21 I -- I have implemented partial platform.</p> <p>22 Q. Okay. So you've never -- you've never</p> <p>23 created a full programming platform, like Android</p> <p>24 or Java?</p> <p>25 MR. KWUN: Objection. Form.</p>	<p>Page 134</p>	<p>1 license it.</p> <p>2 Q. (By Mr. Ramsey) All right. And you don't</p> <p>3 support piracy of copyrighted material, correct?</p> <p>4 A. No, I do not.</p> <p>5 (Discussion off the stenographic record.)</p> <p>6 THE VIDEOGRAPHER: This marks the end of</p> <p>7 Disc 2 of the deposition of Dr. Roderic Cattell. We</p> <p>8 are off the record at 12:02.</p> <p>9 (Recess taken.)</p> <p>10 THE VIDEOGRAPHER: This marks the</p> <p>11 beginning of Disc No. 3, to the deposition of the</p> <p>12 Dr. Roderic Cattell. We are now back on the record</p> <p>13 at 12:43.</p> <p>14 MR. RAMSEY: All right. Would you please</p> <p>15 mark Exhibit 5170.</p> <p>16 (Exhibit 5170 was marked for identification by</p> <p>17 the court reporter and is attached hereto.)</p> <p>18 Q. (By Mr. Ramsey) Dr. Cattell, you have been</p> <p>19 handed a book entitled, "JBDC API Tutorial and</p> <p>20 Reference, Second Edition," marked Exhibit 5170 --</p> <p>21 A. Yes.</p> <p>22 Q. -- correct?</p> <p>23 And this is the same JDBC API Tutorial</p> <p>24 and Reference, Second Edition, that we discussed</p> <p>25 earlier --</p>	<p>Page 136</p>
<p>1 THE DEPONENT: Well, together with other</p> <p>2 engineers at Sun, basically, I did do that --</p> <p>3 Java EE and Java SE. But as an individual, by</p> <p>4 myself, implementing an entire platform -- well, I</p> <p>5 implemented an operating system once.</p> <p>6 Did they -- they could do personal</p> <p>7 computers -- computing on a -- on an IBM 1130 that</p> <p>8 wasn't designed to allow multiple -- you know, an</p> <p>9 individual interactive use.</p> <p>10 Q. (By Mr. Ramsey) Have you ever paid money to</p> <p>11 license software?</p> <p>12 MR. KWUN: Objection. Form.</p> <p>13 THE DEPONENT: Yes, as an end user.</p> <p>14 Q. (By Mr. Ramsey) Right.</p> <p>15 And as an end user, you don't just go on</p> <p>16 the Internet and -- and take the code that you</p> <p>17 want, right? You paid for a license to the</p> <p>18 software --</p> <p>19 A. Yeah.</p> <p>20 MR. KWUN: Objection.</p> <p>21 Q. (By Mr. Ramsey) -- that is available?</p> <p>22 MR. KWUN: Objection. Form.</p> <p>23 THE DEPONENT: Yeah. Say, for</p> <p>24 Microsoft Office, I might say I want the new</p> <p>25 version, and then I'll look for where to buy it and</p>	<p>Page 135</p>	<p>1 A. Yes.</p> <p>2 Q. -- excerpted as Exhibit 5169, true?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And if you can please just turn to</p> <p>5 the fifth page, as we did before, of Exhibit 5170?</p> <p>6 A. Okay.</p> <p>7 Q. Do you recall earlier today, with respect</p> <p>8 to Exhibit 5169, we discussed the specification</p> <p>9 license stated in the JDBC API Tutorial and</p> <p>10 Reference, Second Edition; do you recall that?</p> <p>11 A. Yes.</p> <p>12 Q. Please take a look and confirm me for</p> <p>13 that language that we discussed earlier, with</p> <p>14 respect to Exhibit 5169, is the same as the</p> <p>15 language that we discussed -- or the language in</p> <p>16 Exhibit 5170.</p> <p>17 A. Yes, it looks the same.</p> <p>18 Q. Okay. Thank you.</p> <p>19 So, Dr. Cattell, you never heard any Sun</p> <p>20 executive state specifically that the public has a</p> <p>21 right to use or re-implement without any obligation</p> <p>22 the -- the declarations from the 37 APIs at issue</p> <p>23 in this case, true?</p> <p>24 MR. KWUN: Objection. Form.</p> <p>25 THE DEPONENT: Not per se, no. You know,</p>	<p>Page 137</p>

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<p>1 I saw some statements about, when we open sourced 2 JDK, that -- what that would mean. 3 Q. (By Mr. Ramsey) Okay. You're not an -- 4 you're not an open source licensing expert; isn't that 5 true? 6 A. Yeah, I don't know if I would say I'm -- 7 I'm an expert. I worked on some open source 8 projects. 9 Q. But your -- in your report, you had -- 10 you provide no opinions about open source 11 licensing? 12 A. Yes. 13 Q. Okay. So when you were preparing your 14 opinions in your report, it's true that you did not 15 look at Google's licenses for its maps, search or 16 AdWords APIs; isn't that true? 17 A. No, I don't remember coming across those. 18 Q. Okay. And when you prepared your 19 opinions, you didn't look at the actual full body 20 of API declarations or SS -- the organization of 21 those declarations at issue in this case, true? 22 MR. KWUN: Objection. Form. 23 THE DEPONENT: Are you talking about the 24 37 Java APIs? 25 Q. (By Mr. Ramsey) Correct.</p>	<p>1 A. Correct. 2 MR. KWUN: Objection. Form. 3 Q. (By Mr. Ramsey) And you didn't talk to any 4 Google engineers in relation to your opinions in your 5 report, true? 6 MR. KWUN: Objection. Form. 7 THE DEPONENT: Correct. 8 Q. (By Mr. Ramsey) So you haven't formed any -- 9 any opinions regarding Google's actual belief, in 2007, 10 regarding the APIs at issue? 11 A. What do you mean by Google's belief 12 in 2007? So you -- Google is a lot of people. I 13 did talk to some Google engineers who were aware 14 that Sun was open sourcing Java, and they thought 15 that would be a good thing -- 16 Q. Okay -- 17 A. -- so... 18 Q. -- my question is more specific. 19 My question is: In forming your 20 opinions, you didn't talk to any -- anybody at 21 Google about what their actual belief was regarding 22 the 37 APIs when they were developing Android? 23 MR. KWUN: Objection. Form. 24 THE DEPONENT: Well, back in 2007, I 25 might have -- have talked to some people at Sun and</p>
<p>Page 138</p> <p>1 A. Are you asking if I went back and looked 2 at all those APIs? 3 Q. That's right. It's -- let me just re-ask 4 my question. 5 It's true that you, in the course of 6 preparing your opinions, you did not examine the 7 entire full body of API declarations and their 8 organization that is at issue in this case? 9 A. No. 10 MR. KWUN: Objection. Form. 11 Q. (By Mr. Ramsey) All right. And it's true 12 that you did not attach or refer in your report to any 13 Java API source code; isn't that true? 14 A. That's correct. I did have familiarity 15 with a lot of Java already, so when someone would 16 refer to a Java API, I generally know what they 17 were talking about. 18 Q. Okay. But you didn't -- my question is, 19 you -- specifically, you didn't refer to any Java 20 source code or discuss that source code in your 21 report? 22 A. That's true. 23 Q. You didn't talk to any formal Sun or 24 Oracle engineers in relation to your opinions here, 25 true?</p>	<p>Page 140</p> <p>1 at Google, but mostly as -- as, you know, informal 2 connections with old friends. So -- but my general 3 belief with the -- from the Google folks was that 4 they thought that this would -- this was a great 5 thing that -- you know, this -- this would be a 6 good thing for them to use, the Java APIs, and that 7 they didn't think they needed a license. 8 MR. RAMSEY: All right. So I'm going to 9 move to strike that as nonresponsive. 10 Q. (By Mr. Ramsey) You didn't talk to anybody 11 who was actually working on Android regarding their 12 belief concerning the 37 APIs at issue in this case? 13 MR. KWUN: Objection. Form. 14 THE DEPONENT: Well, I don't know if they 15 were working on -- I talked to Josh Bloch, for 16 example. I don't know what he was working on at 17 the time I talked to him. 18 Q. (By Mr. Ramsey) All right. In your report, 19 you don't -- you don't recount any conversations with 20 anybody at Google who was working on Android, that's 21 true? 22 A. Yes. 23 Q. And you don't actually examine any 24 documents regarding the development of Android; 25 isn't that true?</p>

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<p>1 A. Cedar, which was preceded by Mesa, which 2 was a variant.</p> <p>3 Q. Wasn't one of the -- I don't know if it 4 was a project name or a product name initially for 5 Java, Oak?</p> <p>6 A. Yes.</p> <p>7 Q. Were you involved in that project at all?</p> <p>8 A. I was aware of the Oak project when -- 9 when that was going on, yes.</p> <p>10 Q. Okay. What is your understanding of why 11 the Java platform was initially developed by Sun?</p> <p>12 MR. KWUN: Objection. Form.</p> <p>13 THE DEPONENT: That's a good question. I 14 don't know all the history, but it's -- my 15 understanding is that it was originally intended 16 for set-top boxes for TVs, and -- and then it's 17 purpose evolved. I liked it because there was 18 finally a good programming language that was also 19 likely to get off the ground, and so I jumped on 20 the bandwagon.</p> <p>21 Q. (By Mr. Ramsey) Okay. Are you familiar with 22 a -- an early Java product called Star7?</p> <p>23 A. Yes. That was a predecessor to Oak, as I 24 understand it.</p> <p>25 Q. And isn't it true that Star7 ran a</p>	Page 150	<p>1 that -- that Linux re-implemented UNIX APIs. 2 A. Yes.</p> <p>3 Q. And Linux is based on the POSIX standard, 4 P-O-S-I-X, true?</p> <p>5 A. Well, officially that -- that's the -- 6 it's kind of like the cart before the horse though, 7 because POSIX was -- POSIX was a standardization of 8 UNIX, and then Linux followed that.</p> <p>9 Q. What do you mean, "POSIX was a 10 standardization of UNIX"?</p> <p>11 A. Well, as I understand it, the POSIX 12 standard was -- was a specification of an API that 13 basically came from the UNIX -- AT&T UNIX. So they 14 wanted to standardize it.</p> <p>15 Q. So POSIX was a formal standardization of 16 UNIX, true?</p> <p>17 A. Yes.</p> <p>18 Q. And POSIX was created through a formal 19 standard setting body such as ISO or ANSI.</p> <p>20 A. I believe so, yes.</p> <p>21 Q. Okay. And it was only after POSIX was 22 a -- was a public standard through the standard 23 setting bodies that Linux re-implemented the 24 standard?</p> <p>25 A. I don't know that that's the case.</p>	Page 152
<p>1 version of Java, true?</p> <p>2 A. Well --</p> <p>3 MR. KWUN: Objection. Form.</p> <p>4 THE DEPONENT: We didn't call it Java, 5 but yes.</p> <p>6 Q. (By Mr. Ramsey) Okay. And Star7 was a small 7 touchscreen mobile device, true?</p> <p>8 MR. KWUN: Objection. Form.</p> <p>9 THE DEPONENT: Well, Star7 referred to 10 what you had to punch on your telephone to reach 11 the people in that group, I think. So -- but 12 this -- yeah, I don't know much about the hardware 13 they were working with.</p> <p>14 Q. (By Mr. Ramsey) Have you actually seen a 15 Star7 device?</p> <p>16 A. No.</p> <p>17 Q. Okay. Are you aware that it had a 18 touchscreen interface?</p> <p>19 MR. KWUN: Objection. Form.</p> <p>20 THE DEPONENT: I'm not sure. It's been a 21 long time.</p> <p>22 Q. (By Mr. Ramsey) Okay. I would like -- I 23 would like to talk about the UNIX APIs for a bit, okay?</p> <p>24 A. Okay.</p> <p>25 Q. You mentioned in your report, you assert</p>	Page 151	<p>1 Q. Okay. So you don't -- you don't -- you 2 don't actually know the timing of when --</p> <p>3 A. That's right.</p> <p>4 Q. -- Linux implemented --</p> <p>5 A. That's right.</p> <p>6 Q. -- the UNIX APIs?</p> <p>7 A. Yes. And there were other UNIXs in 8 between -- like Berkeley UNIX, and so on -- that 9 was forked off of AT&T UNIX.</p> <p>10 Q. Okay. And you are -- you are aware that 11 the UNIX operating system is made available under 12 the GNU, that's G-N-U, general public license, 13 true?</p> <p>14 A. I that's the case, yes.</p> <p>15 Q. Okay. You don't know anything about the 16 specific terms or requirements of the --</p> <p>17 A. No.</p> <p>18 Q. -- GNU, general public license?</p> <p>19 A. Not really, no.</p> <p>20 Q. Okay. During the course of your work on 21 your research -- your -- your expert report, you 22 didn't do any -- any scholarly research regarding 23 the legal history of protection of software, true?</p> <p>24 A. Correct.</p> <p>25 MR. KWUN: Objection. Form.</p>	Page 153

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1 THE DEPONENT: Correct.
 2 Q. (By Mr. Ramsey) And during the course of
 3 your -- preparing your expert report, you didn't do any
 4 research regarding the business history that -- the
 5 history of business models concerning APIs?
 6 MR. KWUN: Objection. Form.
 7 THE DEPONENT: Well, I did some Google
 8 searches. I'm trying to figure out -- looking for
 9 some examples historically.
 10 Q. (By Mr. Ramsey) But you -- you didn't
 11 address in your report, and you didn't research,
 12 companies that have actually exerted control over their
 13 APIs, such as Microsoft?
 14 MR. KWUN: Objection. Form.
 15 THE DEPONENT: Well, I did -- I did
 16 research that a bit, you know, the -- the -- the
 17 history with Microsoft and this -- and this Wine
 18 interface and other clones. And of course, I was,
 19 you know, historically there when it happened to
 20 see where they succeeded and failed.
 21 Q. (By Mr. Ramsey) I notice in your report when
 22 you discuss Wine, you do not discuss how Wine was
 23 developed, correct?
 24 A. That's true.
 25 Q. Do you agree with me that the way Wine is

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1 cautious to me.
 2 Q. (By Mr. Ramsey) Can you identify any API in
 3 Wine that was copied from copyrighted Microsoft code?
 4 MR. KWUN: Objection. Form.
 5 THE DEPONENT: Copyrighted source code
 6 for the implementation; no, I would be very
 7 surprised if there was.
 8 Q. (By Mr. Ramsey) You believe it's possible
 9 that Microsoft might sue Wine, don't you agree --
 10 MR. KWUN: Objection --
 11 Q. (By Mr. Ramsey) -- for use of the Microsoft
 12 APIs?
 13 MR. KWUN: Objection. Form.
 14 THE DEPONENT: They could try to do that.
 15 Q. (By Mr. Ramsey) And that wouldn't be a
 16 surprising thing to you, given Microsoft's business
 17 history and position regarding its Windows APIs?
 18 MR. KWUN: Objection. Form.
 19 THE DEPONENT: I would be a little
 20 surprised because I think that most of the industry
 21 would be against them, but I -- I can see them
 22 doing that, yes.
 23 Q. (By Mr. Ramsey) Okay. And -- and
 24 developers -- if you ask developers right now, "Well,
 25 do you think that Microsoft might attempt to suppress

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1 developed is by what is known as block-box
 2 development?
 3 A. Yes.
 4 MR. KWUN: Objection. Form.
 5 THE DEPONENT: Yeah, Cleanroom, or
 6 whatever you call it, where they didn't look at the
 7 source code and they implemented their own.
 8 Q. (By Mr. Ramsey) Right. So in the context of
 9 Wine, the only input to development of Wine is a binary
 10 Microsoft DLL file; isn't that true?
 11 MR. KWUN: Objection. Form.
 12 THE DEPONENT: Yes and no. I mean,
 13 someone had derived what the API was, which you can
 14 do from the binary.
 15 Q. (By Mr. Ramsey) But you had -- in your
 16 report, you did not discuss at all what resources were
 17 available to the developers of Wine, in terms of API
 18 specifications or code, or anything else, right?
 19 A. Yes. As I understand it, they had to
 20 deduce what the API was, and then re-implement it.
 21 Q. Okay. Don't you agree that Wine is an
 22 example of attempting to be very cautious about
 23 what is copied and what is not?
 24 MR. KWUN: Objection. Form.
 25 THE DEPONENT: Yes, it sounds very

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1 the use of the Windows APIs in Wine," some portion of
 2 them would say, "I can see that happening," and some
 3 other portion might say, "I can't see that happening."
 4 A. Yes, certainly there will be people with
 5 both beliefs.
 6 Q. And so different segments of the
 7 developer community might have different
 8 expectations about whether it's risky or
 9 permissible, or not, to use the Wine APIs?
 10 MR. KWUN: Objection. Form.
 11 THE DEPONENT: It's my contention that
 12 the majority of the developer community would think
 13 that it's okay to re-implement an API; but, yes,
 14 there will be people on both sides.
 15 Q. (By Mr. Ramsey) Right. Even if developers
 16 believe that, "I should be able to use APIs," those
 17 same developers may recognize that there are questions
 18 and risk in doing so. It's not a decisive belief.
 19 A. Yes.
 20 MR. KWUN: Objection. Form.
 21 THE DEPONENT: Yes.
 22 Q. (By Mr. Ramsey) And you have not done any
 23 empirical work to empirically measure the amount and
 24 degree of whether developers believe that they are
 25 actually able to reuse and re-implement the APIs versus

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<p>1 what they want to be the world?</p> <p>2 MR. KWUN: Objection. Form.</p> <p>3 THE DEPONENT: I haven't done any</p> <p>4 empirical research on that, yes --</p> <p>5 Q. (By Mr. Ramsey) Okay. Do you --</p> <p>6 A. -- just -- just talking to people over --</p> <p>7 for 20 years.</p> <p>8 Q. Do you -- do you believe that if APIs</p> <p>9 were found to be copyright protected and copying of</p> <p>10 them is not fair use that -- in this case, that</p> <p>11 while some Java developers would be unhappy, they</p> <p>12 would be able to adapt to the new situation in</p> <p>13 Android?</p> <p>14 MR. KWUN: Objection. Form.</p> <p>15 THE DEPONENT: I think a lot of people</p> <p>16 would be unhappy if they learn that this was not a</p> <p>17 fair use of an API. And I think a number of groups</p> <p>18 may lobby Congress to change the laws with respect</p> <p>19 to API copyright. And -- and with respect to</p> <p>20 Android, it would be kind of a mess unless there</p> <p>21 was an easy path from the current Android platform</p> <p>22 to something that Google could actually support</p> <p>23 legally.</p> <p>24 Q. (By Mr. Ramsey) All right. So let me -- let</p> <p>25 me ask a slightly different question.</p>	<p>1 Q. -- Android developers are technically</p> <p>2 capable of learning new APIs that -- that Google</p> <p>3 may implement in Android that are different from</p> <p>4 the current APIs?</p> <p>5 A. Yes. That would be bad for Oracle most</p> <p>6 of all --</p> <p>7 Q. All right.</p> <p>8 A. -- because Google --</p> <p>9 Q. My question is: Android developers are</p> <p>10 technically capable of learning new APIs that</p> <p>11 Google may implement in Android that are different</p> <p>12 from the current APIs?</p> <p>13 A. Yes.</p> <p>14 Q. Did you do any comparative analysis</p> <p>15 between what I would call the -- all the other</p> <p>16 non-Java APIs in your report and the Java APIs at</p> <p>17 issue in this case?</p> <p>18 A. I mean only at a high level, yes.</p> <p>19 Q. But you didn't sit down and examine, side</p> <p>20 by side, whether the other APIs -- Wine, Linux,</p> <p>21 Microsoft, IBM, BIOS -- were more or less similar</p> <p>22 or dissimilar to the Java APIs at issue?</p> <p>23 A. At some level, yes; I mean, whether they</p> <p>24 were a platform versus a library, versus a way of</p> <p>25 connecting to other programs, and so on.</p>
<p>Page 158</p> <p>1 Do you believe that if the APIs in this</p> <p>2 case were found to be copyright protected, and</p> <p>3 copying of them is not fair use, that while some</p> <p>4 JAVA developers would be unhappy, if Google gave</p> <p>5 them new APIs and educated them about the</p> <p>6 situation, they could adapt?</p> <p>7 MR. KWUN: Objection. Form.</p> <p>8 THE DEPONENT: Well, there's a -- there's</p> <p>9 a difference between them being able to adapt and</p> <p>10 being willing to adapt, I imagine.</p> <p>11 Q. (By Mr. Ramsey) Do you believe that their --</p> <p>12 that developers, if given a resource and new APIs by</p> <p>13 Google to transition to new APIs, could do so?</p> <p>14 MR. KWUN: Objection. Form.</p> <p>15 THE DEPONENT: They are technically</p> <p>16 capable of doing so, given enough time.</p> <p>17 Q. (By Mr. Ramsey) Okay. And so with some time</p> <p>18 and investment by developers and Google, current</p> <p>19 Android developers could transition to new and</p> <p>20 different Android APIs if necessary?</p> <p>21 A. Yes. But I think that would be a bad</p> <p>22 thing.</p> <p>23 Q. Okay. Even -- putting aside your view</p> <p>24 that it may not be a great thing --</p> <p>25 A. Yeah.</p>	<p>Page 160</p> <p>1 Q. Okay. You didn't sit down, for example,</p> <p>2 with the IBM BIOS API specification and put it next</p> <p>3 to the Java SE API specification and look for</p> <p>4 similarities or differences, true?</p> <p>5 A. Correct.</p> <p>6 Q. And you didn't sit down with the Wine API</p> <p>7 specification and the Java SE 5 API specification</p> <p>8 and look at them and compare, side by side, are</p> <p>9 these similar or different?</p> <p>10 A. Yes.</p> <p>11 Q. You also didn't sit down with the UNIX</p> <p>12 or Linux API specifications and the Java API</p> <p>13 specifications and compare to see how similar or</p> <p>14 different they were?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. You didn't set -- put down on --</p> <p>17 in front of you the SQL, or any other database, API</p> <p>18 specification and the Java SE 5 specification, and</p> <p>19 compare how similar or different they are?</p> <p>20 A. Yes. I don't know what I would compare</p> <p>21 there, the number of lines or the -- whether they</p> <p>22 use methods or procedures, or whatever -- it's sort</p> <p>23 of --</p> <p>24 Q. Right --</p> <p>25 A. -- apples and oranges.</p>

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<p>1 of the article --</p> <p>2 A. Yes.</p> <p>3 Q. -- in Exhibit 5171.</p> <p>4 A. Yes. I agree with the last line,</p> <p>5 "Yikes." This makes a mess of things.</p> <p>6 Q. All right. So if you could, please turn</p> <p>7 to the fourth page of the article. Let me know</p> <p>8 when you are there.</p> <p>9 A. Yes.</p> <p>10 Q. In the article that you -- you are</p> <p>11 looking at that is discussing the protection of</p> <p>12 APIs, in this case in particular there's a quote</p> <p>13 from a fellow Steve Wilmott, CEO of 3Scale.</p> <p>14 Do you see that?</p> <p>15 A. I see the -- oh, yeah, I see that, yes.</p> <p>16 Q. Are you familiar with 3Scale?</p> <p>17 A. Not particularly, no.</p> <p>18 Q. Okay. And 3Scale, you agree, is</p> <p>19 described here as an API management company?</p> <p>20 A. Okay.</p> <p>21 Q. According to this article, Mr. Wilmott</p> <p>22 states, and I quote: "It's always been a legal</p> <p>23 gray area whether an API that a company publishes</p> <p>24 is reusable and I would say that it just became</p> <p>25 more dangerous to use someone's API design without</p>	<p>1 to Java language specification -- the language</p> <p>2 specification. The APIs are libraries.</p> <p>3 Q. Okay. So you can use the Java language</p> <p>4 syntax in the Java language specification without</p> <p>5 using the APIs?</p> <p>6 MR. KWUN: Objection. Form.</p> <p>7 THE DEPONENT: Yes, you could.</p> <p>8 Q. (By Mr. Ramsey) Okay. Did you do any review</p> <p>9 of any -- any licenses at all for APIs, over the course</p> <p>10 of the last 20 or 30 years, in preparing your opinions?</p> <p>11 MR. KWUN: Objection. Form.</p> <p>12 THE DEPONENT: Over the last 30 years, I</p> <p>13 have looked at lots of licenses but not as part of</p> <p>14 preparation for this report.</p> <p>15 Q. (By Mr. Ramsey) Okay. Well, you didn't rely</p> <p>16 on any licenses for APIs in preparing your opinions,</p> <p>17 right?</p> <p>18 A. Well, I think I relied on my recollection</p> <p>19 of APIs and their licenses, yes.</p> <p>20 Q. You remember, earlier today we talked</p> <p>21 about Exhibit 5169, and 5170, the -- the Java --</p> <p>22 A. Yes.</p> <p>23 Q. -- API that you were involved with,</p> <p>24 right?</p> <p>25 A. Yes.</p>
<p>Page 174</p> <p>1 consulting them first."</p> <p>2 Do you see that?</p> <p>3 A. Yup.</p> <p>4 Q. So you agree with me that at least one</p> <p>5 person's view in the software development community</p> <p>6 is that it's always been a legal gray area whether</p> <p>7 an API that a company publishes is reusable?</p> <p>8 A. Yup, I see he says that.</p> <p>9 Q. And you see that -- you may have noticed</p> <p>10 in other parts of this article, there are views</p> <p>11 expressed that APIs should be reusable by some</p> <p>12 commenters?</p> <p>13 A. Yes.</p> <p>14 Q. So you agree with me that there's all --</p> <p>15 more than one view in the software industry about</p> <p>16 whether APIs are reusable?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. All right. You have not done any</p> <p>19 analysis of the Java language specification in your</p> <p>20 expert report; isn't that true?</p> <p>21 A. Correct.</p> <p>22 Q. For example, you have not compared any</p> <p>23 aspects of the APIs that are at issue in this case</p> <p>24 to the Java language specification, right?</p> <p>25 A. Well, I don't know what I would compare</p>	<p>Page 176</p> <p>1 Q. And in that particular Java API, there</p> <p>2 was a specification license that we discussed; do</p> <p>3 you recall that?</p> <p>4 A. Yeah --</p> <p>5 MR. KWUN: Objection. Form.</p> <p>6 THE DEPONENT: -- yes, I recall that.</p> <p>7 Q. (By Mr. Ramsey) And we noted that the</p> <p>8 specification license regarding your Java API provided</p> <p>9 some limitations on use of the APIs --</p> <p>10 MR. KWUN: Objection. Form.</p> <p>11 Q. (By Mr. Ramsey) -- stated here.</p> <p>12 MR. KWUN: Objection. Form.</p> <p>13 Q. (By Mr. Ramsey) Do you recall that?</p> <p>14 MR. KWUN: Objection. Form.</p> <p>15 THE DEPONENT: Yes.</p> <p>16 Q. (By Mr. Ramsey) And it's true that, in your</p> <p>17 opinion -- in your opinion, for example, you did not</p> <p>18 consider the specification license that was in the Java</p> <p>19 API that you and I -- the JDBC Java API that you and I</p> <p>20 discussed?</p> <p>21 A. I did not consider it; what do you mean?</p> <p>22 Q. Well, in the course of preparing your</p> <p>23 expert opinions, you didn't consider Java</p> <p>24 specification license, which is a license that you</p> <p>25 and I discussed today?</p>

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1 the AdWords API agreement we just read states that are
 2 there limitations in the agreement on, quote, your
 3 right to use, copy and retain your copy of the AdWords
 4 API in the AdWords API specifications.

5 You remember that part, right?

6 MR. KWUN: Objection. Form.

7 THE DEPONENT: Let me call your attention
 8 to what -- it says what using the AdWords API means
 9 right after definition there, you see?

10 And it says the use of the markup
 11 language described in the API specification, so
 12 that doesn't mean I can't keep a copy of the API,
 13 or that I can't copy it.

14 It says accessing the Google servers
 15 through that API; well, I certainly can't do that
 16 if I'm not going to use AdWords anymore.

17 Q. (By Mr. Ramsey) Well --

18 A. Sending information to my account,
 19 receive information back, distribute under -- these
 20 are all things that are directly relevant to using
 21 their service --

22 Q. Okay.

23 A. -- so it's not like I'm re-implementing
 24 it in the sense that Google has done with Java API.

25 Q. I think we agree that -- that this

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1 you agree with me that from our -- from our
 2 investigation of the AdWords API terms and the AdWords
 3 API specification, that there's some pretty granular
 4 questions about what limitations might be imposed on
 5 the use of an API in one context or another, true?

6 MR. KWUN: Objection. Form.

7 THE DEPONENT: Yes, there are often
 8 questions about the limitations, as we have seen in
 9 some of the other documents.

10 Q. (By Mr. Ramsey) And there's many fine-grain
 11 calls about whether, in this particular AdWords context
 12 or another API context, the set of expectations are --
 13 are known, or set, or -- or understood?

14 MR. KWUN: Objection. Form.

15 THE DEPONENT: Yes. I'm just saying,
 16 your example is not very convincing if you are
 17 trying to show me that Google is restricting the
 18 APIs in the same sense that Oracle is trying to.

19 Q. (By Mr. Ramsey) Well, regardless of whether
 20 Google is restricting its APIs in exactly the same way
 21 as this case, you agree that Google is, in some manner,
 22 restricting use of some of its APIs?

23 MR. KWUN: Objection. Form.

24 THE DEPONENT: Apparently so.

25 Q. (By Mr. Ramsey) Okay. And you agree with me
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1 agreement is saying with -- with respect to the
 2 particular markup language defining the
 3 AdWords API --

4 A. Yes.

5 Q. -- in a particular context, we, Google,
 6 are imposing limitations on the right to use, copy
 7 and retain --

8 MR. KWUN: Objection.

9 Q. (By Mr. Ramsey) -- as a general matter, that
 10 is true?

11 MR. KWUN: Objection. Form.

12 THE DEPONENT: Okay. I don't see this as
 13 an apples-and-apples comparison to --

14 Q. (By Mr. Ramsey) I'm not looking -- I just
 15 want to know, in the context of the API, Google is
 16 saying to licensees: In this domain, we are going to
 17 limit your ability to -- and your right to use, copy
 18 and retain your copy of the AdWords API commands, if
 19 you will?

20 MR. KWUN: Objection. Form.

21 THE DEPONENT: I guess I don't agree.

22 The underlying words say something different when
 23 you look at what the definitions are, of the
 24 AdWords API and so on.

25 Q. (By Mr. Ramsey) Okay. Well, this is -- do

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1 that the AdWords API agreement doesn't just talk about
 2 use, it says that it's restricting the right to use,
 3 copy and retain a copy of the AdWords API. So -- so
 4 the agreement specifically limits copying?

5 MR. KWUN: Objection. Form.

6 THE DEPONENT: I can't say. I think you
 7 should be having this conversation with an expert
 8 on licensing, not an expert on -- on technology,
 9 but yes.

10 Q. (By Mr. Ramsey) Okay. Do you believe that
 11 developers in an ecosystem using the AdWords APIs --
 12 A. Yeah.

13 Q. -- may form their view about what is
 14 expected in relation to the input of a licensing
 15 expert, for example?

16 MR. KWUN: Objection. Form.

17 THE DEPONENT: Yeah, they could talk to a
 18 licensing expert.

19 Q. (By Mr. Ramsey) And so developers'
 20 understanding what they should expect with regard to
 21 the AdWords APIs may turn on the input of lawyers or
 22 licensing experts.

23 MR. KWUN: Objection. Form.

24 THE DEPONENT: Developers do that
 25 sometime, yes, they go find an expert on the

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<p>1 licensing word.</p> <p>2 Q. (By Mr. Ramsey) Okay. So I note in your</p> <p>3 report you -- and we have talked about a number of</p> <p>4 other APIs other than the Java APIs; do you recall</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. We talked about Linux, and Wine, and</p> <p>8 UNIX, and SQL APIs; you recall that?</p> <p>9 A. Yes.</p> <p>10 Q. But you don't talk about Google APIs in</p> <p>11 your report.</p> <p>12 Just as a factual matter that's true,</p> <p>13 right?</p> <p>14 A. Yes. I didn't see any good examples in</p> <p>15 the Google APIs.</p> <p>16 Q. Okay. But were you instructed not to</p> <p>17 look at Google APIs?</p> <p>18 A. No, no. I just searched around the</p> <p>19 Internet, and there didn't seem to be any --</p> <p>20 anything about the Google APIs that were --</p> <p>21 Q. Okay.</p> <p>22 A. -- an issue.</p> <p>23 Q. Did you even -- beyond the Google</p> <p>24 AdWords APIs, did you consider the Google Earth or</p> <p>25 Google Maps APIs in forming your opinions?</p>	<p>1 for your engagement in this matter to date?</p> <p>2 A. \$300 an hour.</p> <p>3 Q. Okay. And what is the total amount of</p> <p>4 compensation for your work on this matter that</p> <p>5 you've received to date?</p> <p>6 A. I would say I have probably worked a week</p> <p>7 so far, so that's 40 hours. What's that make,</p> <p>8 12,000?</p> <p>9 Q. Okay. And prior to -- you mentioned in</p> <p>10 your expert report, you refer to work on an amicus</p> <p>11 brief.</p> <p>12 Did you --</p> <p>13 A. That was free. And in fact, I'm -- I</p> <p>14 have cut my usual rate of \$600 in half for Google</p> <p>15 on this, because I believe that this is important</p> <p>16 to the computer science community.</p> <p>17 Q. Okay. So you have a strong personal view</p> <p>18 about whether the use of the APIs at issue should</p> <p>19 be fair use or not; is that fair to say?</p> <p>20 A. When I -- when I am an expert witness, I</p> <p>21 generally won't take cases where I don't agree with</p> <p>22 what the client wants me to argue.</p> <p>23 Q. Okay. And you understand what your views</p> <p>24 are about the --</p> <p>25 A. Yes.</p>
<p>Page 206</p> <p>1 A. Not those two in particular, no.</p> <p>2 Q. Okay. And you didn't examine of the</p> <p>3 licensing terms associated with the Google Maps or</p> <p>4 Google Earth APIs, right?</p> <p>5 A. Well, I have had some experience looking</p> <p>6 at the licensing terms, but -- they -- they</p> <p>7 didn't -- it didn't ring a bell, with respect to</p> <p>8 this case, as being relevant.</p> <p>9 Q. All right. But you didn't go -- so you</p> <p>10 are saying that, as you are preparing your report,</p> <p>11 you thought: Hmm, maybe I should go look at the</p> <p>12 Google Maps and Google Earth APIs --</p> <p>13 A. No. I didn't -- I didn't think it would</p> <p>14 be relevant.</p> <p>15 Q. Okay. You -- that means you did think</p> <p>16 about those APIs and determined not to go look at</p> <p>17 them?</p> <p>18 A. Yeah, briefly.</p> <p>19 Q. Okay. So you didn't go look and check at</p> <p>20 what precisely those terms or limitations might</p> <p>21 be --</p> <p>22 A. No, I didn't. I did searches and looked</p> <p>23 for APIs that were licensed, yes.</p> <p>24 Q. Okay. You know, how -- just a sort of a</p> <p>25 side question: How much money have you been paid</p>	<p>Page 208</p> <p>1 Q. -- the use of APIs in this case?</p> <p>2 A. Yes. I believe that APIs should be</p> <p>3 freely re-implementable in general --</p> <p>4 Q. Okay.</p> <p>5 A. -- with a few exceptions perhaps.</p> <p>6 Q. But you -- and you've stated today that</p> <p>7 you have an impression about some of your other</p> <p>8 colleagues in the industry, and that they share</p> <p>9 your views.</p> <p>10 Is that true that it's your impression?</p> <p>11 A. Yes.</p> <p>12 MR. KWUN: Objection. Form.</p> <p>13 THE DEPONENT: My impression is, the</p> <p>14 majority of my colleagues would agree.</p> <p>15 Q. (By Mr. Ramsey) You have not done a survey</p> <p>16 to interview a -- a statistically significant --</p> <p>17 A. Yes --</p> <p>18 Q. -- sample --</p> <p>19 A. -- that's right.</p> <p>20 Q. -- of people to understand whether they</p> <p>21 actually share your view or not?</p> <p>22 A. Yes, that's right.</p> <p>23 MR. KWUN: And, Dr. Cattell, I know it's</p> <p>24 getting later --</p> <p>25 THE DEPONENT: Oh, I am sorry --</p>

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1 MR. KWUN: And we're getting a lot of
 2 repeated questions --
 3 THE DEONENT: -- and we're trying to
 4 finish up. Right. Right.
 5 MR. KWUN: -- which maybe makes it
 6 harder --
 7 THE DEONENT: Okay.
 8 MR. KWUN: -- but you do need to -- and
 9 including even when I'm talking now --
 10 THE DEONENT: Give you a chance to
 11 object.
 12 MR. KWUN: -- you need to wait until one
 13 person is finished talking --
 14 THE DEONENT: Okay.
 15 MR. KWUN: -- so that we have a clean
 16 record of what has been asked and what your
 17 answer --
 18 THE DEONENT: I understand.
 19 MR. KWUN: -- because otherwise you might
 20 say yes, and it may turn out that Dave says no at
 21 the end, and then you're actually answering the
 22 wrong questions.
 23 THE DEONENT: Yeah, it's late and I'm
 24 getting tired. I'm sorry.
 25 Q. (By Mr. Ramsey) So, Dr. Cattell, when you

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1 MR. KWUN: Okay.
 2 THE VIDEOGRAPHER: We are off the record
 3 at 2:32.
 4 (Recess taken.)
 5 THE VIDEOGRAPHER: This marks the
 6 beginning of the Disc No. 4, to the deposition of
 7 the Dr. Roderic Cattell. We are now back on the
 8 record at 2:39.
 9 Q. (By Mr. Ramsey) Okay. Dr. Cattell, back
 10 in the -- the mid-2000s, you understand that Sun
 11 had a variety of licenses associated with the
 12 Java APIs, correct?
 13 MR. KWUN: Objection. Form.
 14 THE DEONENT: Yes.
 15 Q. (By Mr. Ramsey) And some of them were
 16 commercial licenses that were specifically negotiated;
 17 do you understand that?
 18 MR. KWUN: Objection. Form.
 19 THE DEONENT: Yes.
 20 Q. (By Mr. Ramsey) And you have talked about
 21 the specification license a bit associated with the
 22 Java API specification today.
 23 You understand that license, right?
 24 MR. KWUN: Objection. Form.
 25 THE DEONENT: Yes.

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1 were preparing your expert report, were you on any
 2 medications that would prevent you from providing your
 3 best opinions and analysis in your report?
 4 A. No, I didn't go on any medications until
 5 February, when I had brain surgery.
 6 Q. Okay. And sitting here today, are you on
 7 any medications that would -- that prevent you from
 8 providing your best and most accurate opinions and
 9 testimony today?
 10 A. No, I am on no medications right now.
 11 Q. And I'm sorry to ask, this is actually
 12 quite routine --
 13 A. Yeah.
 14 Q. -- and I apologize, but I just want to --
 15 want to make sure that, both when you are preparing
 16 your report and sitting here today, you are -- you
 17 believe you are fully capable of providing your
 18 best opinions and analysis that you draw in this
 19 case?
 20 A. Yes. I'm just a little tired right now.
 21 Q. Understood. Okay. Me too.
 22 MR. RAMSEY: And, you know, I really do
 23 think I'm almost done. Let me take five and caucus
 24 with Mr. Uriarte, and I'll make sure -- I'm sure
 25 I'm forgetting something that he'll remind me.

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1 Q. (By Mr. Ramsey) And you mentioned that at
 2 some point along the way there was a -- an open
 3 source -- open JDK license that came into being, true?
 4 A. Yes.
 5 Q. Now, you don't -- you haven't examined
 6 every one of those licenses to the APIs in
 7 producing your opinions; is that true?
 8 MR. KWUN: Objection. Form.
 9 THE DEONENT: I have not.
 10 Q. (By Mr. Ramsey) Okay. So you've not
 11 expressed an opinion whether Google was allowed to copy
 12 all of the header lines, all of the declarations, in
 13 the 166 APIs in Java in a way that was consistent with
 14 these licenses, right?
 15 A. No, I did not base my opinion on those
 16 licenses.
 17 Q. Okay.
 18 MR. RAMSEY: I think that's all I have.
 19 MR. KWUN: All right. I -- I think I
 20 just have one or two questions for Dr. Cattell.
 21 And just, if you can try to remember that
 22 the -- almost just pretend that Mr. Ramsey is
 23 asking you these questions --
 24 THE DEONENT: Okay.
 25 MR. KWUN: -- and that way you can look

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